GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – East Godavari District - Revision Petition filed by Sri Kadukula Samba Murthy S/o.Nookayya & 2 others R/o. Kindra (V) of Rajavommangi (M), E.G.District against the orders of the Additional Agent to Government in CMA No.15/2004, dt.23.10.2004 in respect of land admeasuring Ac.10.37 cts in R.S.No.54 of Kindra (V) of Rajavommangi (M), East Godavari District - Dismissed – Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.MS.No. 91 Dated: 26-11-2015
Read the following:-

1. Revision Petition filed by Sri Kadukula Samba Murthy S/o.Nookayya & 2 others R/o. Kindra (V) of Rajavommangi (M), E.G.District dated:18.04.2005.
2. Govt.Memo.No.4125/LTR-2/2005-1, dt. 23.05.2005.
3. From the Additional Agent to Government, Rampachodavaram, East Godavari District T8/Revision/2007, Dt.19.06.2007.
4. Govt.Lr.No.4125/LTR-2/2005, dt.26.05.2015.

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ORDER:-

In the reference first read above Sri Kadukula Samba Murthy S/o.Nookayya & 2 others R/o. Kindra (V) of Rajavommangi (M), East Godavari District has filed a Revision Petition before the Government against the orders of the Additional Agent to Government in CMA No.15/2004, dt.23.10.2004 in respect of land admeasuring Ac.10.37 cts in R.S.No.54 of Kindra (V) of Rajavommangi (M), East Godavari District, wherein the Additional Agent to Government, Rampachodavaram partly set aside the orders passed by the Special Deputy Collector (TW) Rampachodavaram in LTRP No.112/2004, dated 07.11.2002 whereby the Special Deputy Collector (Tribal Welfare) has held that the petition land be restored to Petitioners in LTR No.112/2004 after ejectment of the Respondents therein.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Additional Agent to Government & Project Officer, ITDA, Rampachodavaram, East Godavari District to furnish the parawise remarks and connected records on the Revision Petition.

3. In the reference 3rd read above, the Project Officer, ITDA & the Additional Agent to Government, Rampachodavaram, East Godavari District has furnished parawise remarks along with the connected records.

4. The above Revision Petition having been stood over for consideration till 13.06.2015 before the Government and the matter having been heard in presence of both parties on 13.06.2015. The Government passes the following orders:-

5.The facts of the case in brief are:

The Special Deputy Collector cum Agency Divisional Officer, Rampachodavaram by his orders in LTRP No.112/2004, dated 07.11.2002 has held that the land measuring total extent of Ac.10.37 cts in Sy.No.54 situated in Kindra village, Rajavommagi Mandal, East Godavari District be restored to the Petitioner therein namely Konala Peddabbai after ejectment of Non-Tribe Respondents namely Kadukula Sambamurthy and others.

(P.T.O)

6. Aggrieved by the same the said K.Sambamurthy and others filed Appeal before Additional Agent to Government, East Godavari District at Rampachodavaram who passed ejection of the Kadukula Sambamurthy (Non-tribe) and others from the petition schedule land, for restoration of the same to Government for onward assignment to eligble tribes giving sympathetic preference to Konala Peddabbai (Tribe) subject to verification of his eligibility.

7. The point for consideration is whether the order of Additional Agent to Government who dismissed the Appeal filed by the Revision Petitioner herein, by confirming the orders passed by the learned Deputy Collector (Tribal Welfare) is sustainable or not.

8. The Additional Agent to Government after perusing the records, came to conclusion that the sale transaction and transfer of land vide sale document No.1118/1958 dated 06.06.1958 between Konalova Potteyya and Chukka Sanyasi and Kodukula Sambamurthy was executed from Tribe to Non-Tribe without prior permission of the Agent to Government which is mandatory and hence there is in violation of Section 4 (1) of Agency tracts Interest and Land Transfer Act 1/1917. Thus in the present case the sale or transfer was in violation Section 4(1) of the Act 1/1917 and hence provisions of Regulation 1/1959 are not applicable but the sale of land by a Tribe to a Non-Tribe without prior permission of Agent to Government, was held null and void, as hit by Land transfer Act 1/1970 and hence the possession of the Revision Petitioner herein was declared as null and void.

9. In the above case the sale deed which is infavour of father of Revision Petitioner is hit under the LTR Act 1/1917 as permission of Agent to Government is not obtained nor produced before the Court. Hence the sale deed of the father, though prior to 1970 is invalid.

10. The Hon'ble Supreme Court in C.A.No.4602 of 1997 and batch in Samath Vs. Government of AP has held that the transfer of land by juristic person or allotment of land by State to a Non Tribe is prohibited.

11. The full Bench of Hon'ble High Court of A.P. has held that the transfer of land by one Non-Tribe to another Non-Tribe is null and void under Section 1 and 3 of APSALT Regulation 1 of 1970 (as reported in 1993 (1) ALT page 409 (FB). Whenever there is prohibited alienation, the Vendee/Non-Tribe cannot enforce any right there under. On the other hand he is liable to be proceeded under LT Regulation.

12. Therefore the petitioner is liable to be ejected as he did not get permission from Agent to Government as required under Sec.4(1) of the Agency tracts Interests and Land Transfer Act 1917.

13. Obviously, the Revision Petitioner did not produce any other valid document of title and the APSALT Regulation basically is meant for the protection of interest and welfare of only Schedule Tribes as per the judgment of the Hon'ble High Court of A.P. and the Hon'ble Supreme Court.

14. A Non-Tribe who does not have a valid title under a document or patta or a grant under any Act is not entitled to continue in possession and hence if he found to be in possession of a schedule land in Agency Area is liable to be ejected and the opportunity given to him is sufficient as per the provisions of the said Act.

15. The concurrent findings of acts by the learned Special Deputy Collector and Additional Agent to Government are correct and the same are not liable to be interfered with.

(P.T.O)

16. There is no infirmity found in the order of the Additional Agent to Government, Rampachodavaram and he has rightly modified the order of Special Deputy Collector (Tribal Welfare) Rampachodavaram. In the result, the Revision Petition is dismissed.

17. The Additional Agent to Government, Rampachodavaram, East Godavari District is requested to take necessary action in the matter accordingly.

18. The original record bearing CMA No.15/2004, LTRP No.112/2000 received from the Additional Agent to Government, Rampachodavaram, East Godavari District, through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Kakinada, East Godavari District.
The Additional Agent to Government & Project Officer, ITDA
Rampachodavaram, East Godavari District.(w.e.)
The Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District.
Copy to:
Sri S.R.Sanku, Advocate, Plot No.3, H.No.11-20-5, Via Huda Complex Post Office, Saroornagar, Hyderabad – 500 035 .
Sri Kadukula Samba Murthy S/o.Nookayya & 2 others R/o. Kindra (V) of Rajavommangi (M), East Godavari District.
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER